IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 20057 of 2004

Between:

Chandana Suryanarayana, S/o. Veeranna,
Aged about 52 years,

Occ:Secretary, Hasanbada Handloom Weavers

Cooperative Production and Sale Society Ltd., No. 515.

HASANBADA,

Ramachandrapuram Mandal, W.G.Dist.

..... PETITIONER

AND

1. Chairman, Person-in-charge committee,

The Hasanabada Handlooms Weavers Co-Op Production-
and Sale Society Ltd., No.515.
2. Assistant Director, Handlooms and Textiles, Kakinada,

East Godavari District.
3. Commissioner, Handloom and Textile,

Burgula Ramakrishna Rao Bhavan,
IVth Floor, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the affidavit filed herein the High Court may be pleased to issue a court order or direction more particularly one in the nature of writ of Mandamus declaring the proceedings in Rc.No.208/2003-D dt. 25.10.2004 issued by the 2nd respondent and consequential order dt. 27.10.2004 issued by the 1st respondent as illegal, arbitrary, capricious, contrary to the provisions of A.P. Cooperative Societies Act, in violation of principles of natural justice and unconstitutional and set-aside the same.

Counsel for the Petitioner: MR.T.S.VENKATARAMANA

Counsel for the Respondent No.1: V.V.NARASIMHAM

Counsel for the Respondents 2 and 3: GP FOR INDUSTRIES & COMMERCE

The Court, at the stage of admission, made the following:

ORDER:

This writ petition is filed seeking a Mandamus to declare the proceedings in RC.No.208/2003-D, dated
25-10-2004, issued by the second respondent and the consequential order, dated 27-10-2004, issued by the first respondent, as illegal, arbitrary and contrary to the provisions of A.P. Cooperative Societies Act.

The brief facts that are necessary for disposal of the writ petition are as follows:

An exhibition was held in Karimnagar District from
27-09-2002 to 10-10-2002. During that period, it is alleged that the petitioner, who is the Secretary of the first respondent-society, fabricated certain accounts and issued false bills by rising the rates, than the rates fixed by the society and thus misappropriated funds of the society.

The first respondent filed a detailed counter-affidavit stating that the present committee was nominated on
08-09-2004 and most of the committee members were weavers and illiterates and they did not know the entire facts of the case and requested the second respondent to grant one week time to go through the entire case for taking further action available in law. But on the same day, the second respondent

insisted the committee members to sign on the impugned proceedings dated 27-10-2004. The second respondent has not given any chance to the first respondent members and has not provided enquiry report to the first respondent-society.

In the detailed counter-affidavit filed by the second and third respondents, they have taken several contentions *inter alia* about the misappropriation of the society funds to the tune of Rs.53,008.50. It is also stated that the inspecting officer, in his report, has given the details of the fictitious bills issued by the petitioner in the Karimnagar exhibition. Therefore, there are no grounds to interfere with the suspension order.

The first respondent has filed a reply counter-affidavit reiterating the same.

Heard the learned counsel for the petitioner, the learned standing counsel for the first respondent and the learned Government Pleader for respondents 2 and 3.

The first respondent-society has to take appropriate decision in accordance with law. According to the learned Government Pleader for respondents 2 and 3, the Assistant Development Officer (Handlooms and Textiles) has conducted enquiry with regard to the fraud said to have been committed by the petitioner at the time of sales at Karimnagar exhibition and submitted a report to the second respondent. Thereafter, the second respondent in turn directed the first respondent to place the writ petitioner under suspension in view of the serious allegations. But the first respondent-society requested the second respondent to furnish a copy of the preliminary enquiry report, which was conducted by the Assistant Development Officer. The said copy has not been furnished to the first respondent. The first respondent has to apply its mind before passing the suspension order as required under Section 59(1) of the A.P. Cooperative Societies Act.

The specific case of the first respondent in the counter-affidavit is that the second respondent has not furnished a copy of the report. The said fact has not been specifically denied or disputed by the second and third respondents in their reply affidavit. Therefore, the proceedings, dated 27-10-2004, issued by the first respondent-Chairman, Person-in-Charge Committee, are liable to be set aside, since at the time of passing the said order, the second respondent has not furnished a copy of the enquiry report so as to place the writ petitioner under suspension. Hence, the first respondent-society has to take appropriate and independent decision basing on the material available on record, including the report that will be furnished by the second and third respondents. It is also made clear that respondents 2 and 3 shall furnish a copy of the enquiry report to the petitioner also.

The writ petition is accordingly disposed of. No costs.

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28-02-2005.

Lrkm.

To

1. The Chairman, Person-in-charge committee,

The Hasanabada Handlooms Weavers Co-Op Production-
and Sale Society Ltd., No.515.

2. The Assistant Director, Handlooms and Textiles,

Kakinada,

East Godavari District.

3. The Commissioner, Handloom and Textile,

Burgula Ramakrishna Rao Bhavan,
IVth Floor, Hyderabad.

4. 2 CCs to the Government Pleader for Industries and

Commerce, High Court Buildings, High Court of A.P.,

Hyderabad (O.U.T).

5. 2 CD copies.

*Form-NIC-OGS/WP{**JGK**}*